

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Date of Filing with
Clerk of the Court:
09/18/2019

L.S.,

SUMMONS

Plaintiff,

Index No.:

-against-

Plaintiff designates
New York County as
the place of trial

ROCKEFELLER INSTITUTE
aka ROCKEFELLER UNIVERSITY
aka ROCKEFELLER UNIVERSITY HOSPITAL
aka ROCKEFELLER INSTITUTE HOSPITAL,

The basis of the venue
is defendant's place of
business

Defendants.

To the above named defendant:

ROCKERFELLER UNIVERSITY
1230 YORK AVENUE
NEW YORK, NY 10065

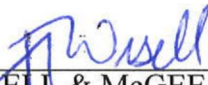
ROCKEFELLER INSTITUTE
1230 YORK AVENUE
NEW YORK, NY 10065

ROCKEFELLER UNIVERSITY HOSPITAL
1230 YORK AVENUE
NEW YORK, NY 10065

ROCKEFELLER INSTITUTE HOSPITAL
1230 YORK AVENUE
NEW YORK, NY 10065

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the plaintiff's attorney within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Kew Gardens, New York
September 18, 2019



WISELL & MCGEE, L.L.P.
Attorneys for Plaintiff
80-02 Kew Gardens Road
Suite 307
Kew Gardens, New York 11415
718-544-0041

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

L.S.,

Plaintiff,

-against-

**VERIFIED
COMPLAINT**

Index No.:

ROCKEFELLER INSTITUTE
aka ROCKEFELLER UNIVERSITY
aka ROCKEFELLER UNIVERSITY HOSPITAL
aka ROCKEFELLER INSTITUTE HOSPITAL,

Defendants.

Plaintiff, by his attorneys, WISELL & MCGEE, L.L.P., as and for their Complaint
in this matter against defendants, hereby alleges as follows:

Nature of the Action

1. This case is brought pursuant to New York's Child Victims Act ("CVA") (CPLR § 214-g).

Jurisdiction and Venue

2. This Court has jurisdiction over the defendants pursuant to CPLR § 301 and § 302, in that defendant's place of business is New York County.
3. This Court has jurisdiction over this action because the amount of damages plaintiff seeks exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.
4. Venue for this action is proper in New York County pursuant to CPLR § 503, in that defendant's place of business is this County.

Parties

5. Defendant ROCKEFELLER INSTITUTE, aka ROCKEFELLER UNIVERSITY,

aka ROCKEFELLER UNIVERSITY HOSPITAL, aka ROCKEFELLER INSTITUTE HOSPITAL (collectively referred to herein as “Rockefeller”) are all domestic not-for-profit corporations under and governed by the laws of New York with their principal place of business at 1230 York Avenue, New York, NY 10065.

6. That at all times relevant herein, Rockefeller employed an individual named Reginald Archibald, M.D. Hereinafter referred to as “Dr. Archibald.”
7. At all times relevant, Rockefeller oversaw, managed, controlled, and directed the activities of Dr. Archibald.
8. Plaintiff is identified by his initials since this case involves child sexual abuse, and disclosure of plaintiff’s identity would cause him further harm.
9. Plaintiff, L.S., is an adult resident of the State of Virginia.

Facts

10. In or about 1949, Dr. Archibald became licensed to practice medicine in New York.
11. Between approximately 1940 and 1982, Dr. Archibald was an agent, employee, and servant under Rockefeller’s supervision, management, agency, and control.
12. During Dr. Archibald’s tenure with Rockefeller, Dr. Archibald treated children suffering from growth deficiencies.
13. For decades, Dr. Archibald sexually abused hundreds of his patients, including plaintiff.

Rockefeller’s Knowledge of Archibald’s Conduct

14. In late 1960, the New York County District Attorney’s Office issued a grand jury subpoena for the medical records of two of Dr. Archibald’s patients.
15. The grand jury subpoena was prompted by a complaint about Dr. Archibald’s

- conduct with regard to minor children he was treating as a medical professional.
16. The president of Rockefeller was made aware of the investigation into Dr. Archibald at the time. The New York County District attorney issued subpoenas.
 17. Upon information and belief, no action was taken to discipline Dr. Archibald nor restrict his access to patients by Rockefeller.
 18. Between 1960 and 1974, Rockefeller's physician-in-chief received additional complaints regarding Dr. Archibald's behavior and examination of patients genitals, from patients he was treating as a medical professional.
 19. As far back as 1960 and continuing forward, Rockefeller had actual and constructive knowledge that Dr. Archibald was sexually assaulting his patients.
 20. Rockefeller failed to stop Dr. Archibald thereby permitting him to continue to victimize children.

Plaintiff's Abuse by Archibald

21. Plaintiff was sexually abused by Dr. Archibald, as described below.
22. None of the acts described herein were medically necessary and were done without consent.
23. Dr. Archibald acted in the way described below for his own sexual gratification.
24. L.S. started treating with Dr. Archibald at Rockefeller in 1971 when he was 8 years old. During his appointments Dr. Archibald sexually abused L.S., including, but not limited to fondling plaintiff's genitals, taking pictures of him while naked, placing a handkerchief over his face and fondling his anus.
25. Plaintiff L.S. witnessed Dr. Archibald masturbate while plaintiff was in an examining room with Dr. Archibald.

First Cause of Action**Negligent Hiring/Retention/Supervision/Direction****Plaintiff v. Defendants**

26. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint.
27. Defendants owed a duty of care to all minor persons, including plaintiff, who were likely to come in contact with Dr. Archibald in his role as doctor, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of defendants, to insure that Dr. Archibald did not use his position to injure minors by sexual assault, abuse, and/or sexual contact.
28. Defendants had an express and/or implied duty to provide a reasonably safe environment for plaintiff and assumed the duty to protect and care for him.
29. Defendants negligently hired, retained, directed, and supervised Dr. Archibald though they knew or should have known that Dr. Archibald posed a threat of harm to the children under his care.
30. Defendants knew of Dr. Archibald's conduct prior to, or at the time of, the occurrence described above.
31. Defendants were negligent in failing to properly supervise Dr. Archibald.
32. The plaintiff's sexual abuse by Dr. Archibald was a foreseeable result of defendants' negligence.
33. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the right and safety of plaintiff.
34. As a direct and proximate result of defendants' actions and omissions, plaintiff suffered and will continue to suffer injuries, as described herein.
35. By reason of the foregoing, the defendants are liable to the plaintiff, jointly severally, and/or in the alternative liable to plaintiff for compensatory damages and punitive damages, together with interest and costs.

36. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

Second Cause of Action

Negligence/Gross Negligence/Recklessness

Plaintiff v. Defendants

37. Plaintiff repeats and re-alleges every allegation set forth throughout this Complaint.
38. Defendants knew, or were negligent in not knowing that, Dr. Archibald posed a threat to sexually abuse children.
39. Dr. Archibald's acts described herein were undertaken, and/or enabled by, and/or during the course, and/or within the scope of Dr. Archibald's employment, appointment, assignment, and/or agency with Defendants.
40. Defendants owed plaintiff a duty to protect plaintiff from Dr. Archibald and the consequential damages, both prior to and/or subsequent to Dr. Archibald's misconduct.
41. Defendants' action were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of plaintiff.
42. Defendants: (1) gave improper or ambiguous orders or failed to make proper regulations, and/or employment improper persons or instrumentalities in work involving risk of harm to others; (2) failed adequately to supervise the activities of Dr. Archibald; (3) failed to protect against or warn the plaintiffs or their families of the known risk and abuse; (4) permitted, and/or intentionally failed and/or neglected to prevent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and (5) allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint

to occur.

43. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of plaintiff.
44. As a direct and proximate result of defendant's actions and omissions, suffered and will continued to suffer injuries, as described herein.
45. By reason of the foregoing, defendants are liable to the plaintiff, jointly, severally, and/or in the alternative liable to the plaintiffs for compensatory damages and for punitive damages, together with interest and cost.
46. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

WHEREFORE, plaintiff demands that all claims be tried before a jury; that Judgment be entered in plaintiff's favor and against all defendants in order to deter wrongful behavior, ensure and encourage socially responsible behavior, establish safe community standards, and compensate the plaintiff in an amount deemed just and fair; that Judgment for punitive damages be awarded; and that all costs be taxed to the defendants.

Dated: Kew Gardens, New York
September 18, 2019

Very truly yours,


WISELL & MCGEE, L.L.P.
Attorneys for Plaintiff
80-02 Kew Gardens Road
Suite 307
Kew Gardens, New York 11415

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

L.S.,

Plaintiff,

**ATTORNEY'S
VERIFICATION**

-against-

ROCKEFELLER INSTITUTE
aka ROCKEFELLER UNIVERSITY
aka ROCKEFELLER UNIVERSITY HOSPITAL
aka ROCKEFELLER INSTITUTE HOSPITAL,

Defendants.

STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

I, the undersigned, an attorney admitted to practice law in the courts of New York State, state that I am the attorney of record for the plaintiff in the within action; I have read the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to those matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true. The reason this Verification is made by me and not by plaintiff is that plaintiff does not reside in the County in which your affirmant maintains his office.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows: Information contained in file.

I affirm that the foregoing statements are true under the penalties of perjury.

Dated: Kew Gardens, New York
September 18, 2019



JOHN T. WISELL

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.:

L.S.,

Plaintiff,

-against-

ROCKEFELLER INSTITUTE
aka ROCKEFELLER UNIVERSITY
aka ROCKEFELLER UNIVERSITY HOSPITAL
aka ROCKEFELLER INSTITUTE HOSPITAL,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

WISELL & McGEE, L.L.P.
Attorneys for Plaintiff
80-02 Kew Gardens Road, Suite 307
Kew Gardens, New York 11415
718-544-0041

TO:

Service of a copy of the within is hereby admitted.

Dated:

PLEASE TAKE NOTICE that pursuant to CPLR 2103(b)(5),
WISELL & McGEE, L.L.P. does not consent to service of any
papers upon it by electronic means (facsimile).
WISELL & McGEE, L.L.P.
80-02 Kew Gardens Road, Suite 307, Kew Gardens, New York 11415